

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LUIS HERNANDEZ,)	
Petitioner,)	Civil Action No. 11-303 Erie
)	
v.)	
)	
SUPERINTENDENT SAUERS, et al)	Magistrate Judge Baxter
Respondents.)	

MEMORANDUM OPINION AND ORDER¹

M.J. Susan Paradise Baxter

On December 8, 2011, Petitioner filed the instant petition for writ of habeas corpus. In this filing, Petitioner attacks the constitutionality and legality of his conviction for criminal offenses in the Court of Common Pleas of York County, Pennsylvania.

Title 28 U.S.C. §2241 provides that where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a state court of a state which contains two or more federal judicial districts,

the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the state court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

¹ In accordance with the provisions of 28 U.S.C. § 636(c)(1), Petitioner has voluntarily consented to have a United States Magistrate Judge conduct proceedings in this case, including the entry of a final judgment.

28 U.S.C. §2241. See also Bell v. Watkins, 692 F.2d 999 (5th Cir. 1982) (the district court transferred the action on the basis of the magistrate's recommendation which indicated that the district where the defendant was convicted was the more convenient forum because of the accessibility of evidence); Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484 (1973).

In the case at bar, Petitioner was tried and convicted in York County, Pennsylvania. Petitioner's records are located there. He is presently incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania, within the Western District of Pennsylvania. York County, the county of the conviction, is located in the Middle District of Pennsylvania. This Court finds that the interests of justice would be better served by transferring this petition to the Middle District of Pennsylvania wherein all activity in this case occurred.

An appropriate Order follows.

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ORDER

AND NOW, this 9th day of January, 2012;

IT IS HEREBY ORDERED that the instant petition for writ of habeas corpus be transferred to United States District Court for the Middle District of Pennsylvania FORTHWITH.

/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States Magistrate Judge